

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

**Sixta Gladys Peña Martínez, et al.**

Plaintiff,

v.

**Alex Azar**, in his official capacity as Secretary of Health and Human Services, *et al.*,

Defendants.

Case No. 18-cv-1206 (WGY)

**NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs respectfully notify the Court of the attached decision of the United States Court of Appeals for the First Circuit in *United States v. Vaello-Madero*, No. 19-1390 (1st Cir. Apr. 10, 2020) (“Op.”) (Torruella, J., joined by Howard, C.J. and Thompson, J.), as supplemental authority of direct relevance to the Court’s resolution of the parties’ pending cross-motions for summary judgment in this matter, which the Court has advised it may wish to resolve through a “case stated” hearing at a future date in lieu of a trial (ECF No. 87).

In *Vaello-Madero*, the First Circuit held that the exclusion of Puerto Rico residents, solely because of their residence in Puerto Rico, from the disability benefits that are granted to residents of the fifty States, the District of Columbia, and the Northern Mariana Islands under the Supplemental Security Income (“SSI”) program pursuant to Title XVI of the Social Security Act, 42 U.S.C. §§ 1381–1383(f), violates the equal protection guarantee of the Fifth Amendment. The First Circuit concluded that the “categorical exclusion of otherwise eligible Puerto Rico residents from SSI is not rationally related to a legitimate government interest,” based on its review not only of the record established by the parties, but also “conceivable theoretical reasons for the differential treatment.” Op. 45.

Plaintiffs respectfully submit that *Vaello-Madero* provides support for the arguments made in their Motion for Summary Judgment (ECF No. 72) (“MSJ”) and Combined Reply in Support of Plaintiffs’ Motion for Summary Judgment and Opposition to Defendants’ Cross-Motion for Summary Judgment (ECF No. 83) (“Reply”), and forecloses the arguments made by the Government in its opposition and cross-motion. Specifically, *Vaello-Madero* directly supports Plaintiffs’ argument that their exclusion from SSI benefits violates equal protection and it is fully dispositive of said controversy. It also supports Plaintiffs’ equal-protection challenge to their exclusion, based on Puerto Rico residence alone, from the Supplemental Nutrition Assistance Program (“SNAP”), and Medicare Part D low-income subsidies (“LIS”) programs. *See* MSJ at 7–23; Reply at 6–22. The First Circuit explained (Op. 13–18), relying in part on this Court’s prior ruling in this case denying dismissal (ECF No. 56; *see* Op. 18 n.8 ), that *Califano v. Torres*, 435 U.S. 1 (1978), and *Harris v. Rosario*, 46 U.S. 651 (1980), do not control the equal-protection claims made in this case, and concluded (Op. 20–40) that none of the three factors the Supreme Court accepted in those cases can establish a rational basis for the exclusion of Puerto Rico residents today.

These conclusions support Plaintiffs’ arguments in this case that the *Harris/Califano* factors do not provide a rational basis for excluding Puerto Rico residents from the SSI, SNAP, or LIS programs.

Dated: April 13, 2020

Respectfully submitted,

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